

STATE OF MICHIGAN  
IN THE SUPREME COURT

IN THE MATTER OF:

HON. WILLIAM RUNCO  
Judge, 19<sup>th</sup> District Court  
Dearborn, Michigan

DOCKET NO.  
FORMAL COMPLAINT NO. 61

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**DECISION AND RECOMMENDATION  
FOR ORDER OF DISCIPLINE**

At a session of the Michigan Judicial  
Tenure Commission held on the 23<sup>rd</sup>  
day of March, 2000, at which the  
following Commissioners were

PRESENT: Hon. Marianne O. Battani  
Hon. William B. Murphy  
Henry Baskin, Esq.  
Carole L. Chiamp, Esq.  
Hon. Theresa Doss  
Peter B. Fletcher  
Hon. Barry M. Grant  
Hon. M. Richard Knoblock  
James M. Middaugh

On December 7, 1998, the Michigan Supreme Court appointed the  
Honorable R. Stuart Hoffius as Master to preside over the hearing of Formal  
Complaint No. 61, as amended, filed by the Michigan Judicial Tenure Commission  
against Honorable William Runco, 19<sup>th</sup> District Court Judge, Dearborn,

Michigan. Following the hearing and written closing arguments, the Master issued his report, which was filed on October 25, 1999, and is attached hereto.

The Respondent filed written objections to the Master's Report, a supporting brief and an appendix. The Examiner filed a brief in response to the Respondent's objections and an appendix. Respondent filed a reply to the Examiner's response. On February, 14, 2000, the Commission heard oral argument on the Respondent's Objections to the Master's Report.

After careful consideration of the Master's Report, review and evaluation of the hearing transcripts and exhibits, and review of the briefs and appendices filed by the Respondent and the Examiner, and having heard oral arguments, the Commission, pursuant to MCR 9.221(B), adopts by this reference the Master's findings of fact set forth in his report, in their entirety, and makes its own conclusions of law.

The facts establish that Respondent represented the Trifans and owed them fiduciary and ethical duties at the time he secretly acquired an interest in their Melvindale property and provided representation to Raymond Trudeau. While the Commission finds that at all material times Respondent represented the Trifans both with regard to the sale of their Melvindale property and purchase of the Allen Park bowling facility, it would reach the same conclusions of law if the representation had been limited to the Allen Park purchase.

Based on these findings of fact, the Commission concludes that Respondent is guilty of:

- a) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Art. 6, Sec. 30, and MCR 9.205;
- b) Misconduct within the meaning of MCR 9.104 (1 - 4), in that such conduct constitutes:

- (1) conduct prejudicial to the proper administration of justice;
  - (2) conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach;
  - (3) conduct that is contrary to justice, ethics, honesty, or good morals; and
  - (4) conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court.
- c) Conduct contrary to former DR 1-102(A)(1), (4), (5), and (6) of the Code of Professional Responsibility, in that he:
- (1) violated disciplinary rules;
  - (2) engaged in conduct involving dishonesty, fraud, deceit or misrepresentation;
  - (3) engaged in conduct prejudicial to the administration of justice; and
  - (4) engaged in other conduct that adversely reflected on his fitness to practice law.
- d) Conduct contrary to former DR 5-101(A), in that he accepted employment, without full disclosure and obtaining his client's consent, in a matter in which his own financial, business, property or personal interest may have impaired his independent professional judgment;
- e) Conduct contrary to former DR 5-105(A), (B), and (C), which required a lawyer to refuse to accept or to continue employment if the interests of another client may have impaired the independent professional judgment of the lawyer, unless it was obvious that he could have adequately represented the interest of each and if each

consented to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each; and

- f) Conduct contrary to former DR 7-102 (A)(8), in that Respondent knowingly engaged in conduct contrary to a Disciplinary Rule.

Respondent failed to file an answer to the Formal Complaint containing a full and fair disclosure of all facts and circumstances pertaining to the alleged misconduct, as required by MCR 9.209(A), and failed to comply with a Commission Order requiring that he “file and serve his answer to the Formal Complaint on or before the close of business on January 8, 1999,” despite a warning from the Master that he would be in default if he failed to comply. Based on these facts the Commission concludes that Respondent is guilty of:

- a) Misconduct in office, as defined by the Michigan Constitution 1963, Art. 6, Sec. 30, as amended, and MCR 9.205;
- b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution 1963, Art. 6, Sec. 30, as amended, and MCR 9.205;
- c) A violation of MCR 9.209(A);
- d) Contemptuous conduct;
- e) Failure to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, in violation of the Code of Judicial Conduct, Canon 1;
- f) Conduct involving impropriety and the appearance of impropriety, thereby eroding public confidence in the judiciary, in violation of the Code of judicial Conduct, Canon 2(A);
- g) Failure to respect and observe the law, and to conduct oneself at all times in a manner which would enhance the public’s

confidence in the integrity and impartiality of the judiciary, as required by the Code of Judicial Conduct, Canon 2(B); and

h) Misconduct within the meaning of MCR 9.104 (1-4) in that such conduct constitutes:

- (1) conduct prejudicial to the proper administration of justice;
- (2) conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach;
- (3) conduct that is contrary to justice, ethics, honesty or good morals; and
- (4) conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court.

The Commission notes that Respondent has raised the “doctrine of laches and other due process considerations” as an affirmative defense. Respondent filed a motion to dismiss Formal Complaint No. 61 on July 27, 1999, on the basis that his defense was prejudiced by the age of the claim. The Commission has fully considered all evidence relating to Respondent’s laches defense, such as the availability of witness testimony and documentary evidence. The key issue in this case is the timing of the agreement between then attorney William Runco and Raymond Trudeau. There were only two witnesses to that agreement – Respondent Runco and Mr. Trudeau. Each testified at length. Additionally, there are no missing documents probative of when the Runco/Trudeau agreement was entered into. The Commission specifically adopts the findings of fact in the Master’s report on this issue and affirms the Master’s Opinion, dated October 22, 1999, denying Respondent’s motion to dismiss.

Pursuant to MCR 9.205(E), the Commission has considered all of the circumstances in deciding whether action by the Commission is warranted. The Commission concludes that a recommendation for discipline to the Supreme Court is warranted.

The Commission would further state that the Master, who heard the testimony and observed the witnesses, was in a better position to determine the credibility of the witnesses and that he rejected Respondent's version of the facts. However, even if Respondent's version of the facts were accepted as true, Respondent would still be guilty of professional misconduct. Respondent's actions, as an attorney, created a breach of his fiduciary duty to his clients, the Trifans. Further, Respondent's actions constituted a conflict of interest, or at least the appearance of same relative to his clients, the Trifans. This is not a situation where Respondent acquired information about his clients' property independently, after the fact, and subsequently acquired an interest in it pursuant to some business arrangement with an unrelated third party. Instead, Respondent acquired information from his clients while he was representing them; he introduced the purchaser to his clients and essentially brokered the deal. Without Respondent's involvement, there is no likelihood whatsoever that this transaction would have been consummated. Almost immediately thereafter, under Respondent's version, he became involved in a business relationship with his handpicked purchaser and acquired an interest in the property, which translated very quickly into a substantial profit. Given Respondent's role in the initial transaction, and the proximity in time between his representation of the Trifans and his business arrangement involving the property, accepting his version of the sequence of events, he should have been put on notice that his actions constituted self-dealing or the appearance of self-dealing and monetary benefit at the expense of his clients.

In considering what sanction to recommend to the Supreme Court, the Commission notes that Respondent committed the acts underlying Formal Complaint No. 61 over 12 years ago, when he was a fairly young, inexperienced attorney, and the book has yet to be closed as Respondent's former client has a pending civil action for money damages. Furthermore, there is no record of any disciplinary action against Respondent as a judge, a position he held for eight years prior to this proceeding.

WHEREFORE, upon resolution of the Michigan Judicial Tenure Commission, it is recommended that the Michigan Supreme Court enter an order finding professional and judicial misconduct as set forth herein and publicly censure the Honorable William Runco.

JUDICIAL TENURE COMMISSION  
OF THE STATE OF MICHIGAN

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HENRY BASKIN, ESQ.

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HON. M. RICHARD KNOBLOCK

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HON. THERESA DOSS

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HON. WILLIAM B. MURPHY

## CONCURRING OPINION

The Runco matter is unique because of two factors, to wit: the Respondent 's conduct as an attorney, and the length of time before a grievance was filed.

The reaction of the Respondent after being questioned by the Commission reflected his lack of any accountability for his actions. In respect thereto, the Respondent stonewalled, which was most counterproductive. If he strongly believed he did nothing wrong, then why did he take such a long time to answer the Commission's request for an explanation for his conduct? Either the Respondent was unaware of the expense his conduct cost his client, or was most naïve in handling the whole transaction. Whatever the reason, there is still no question that the Respondent committed professional misconduct. It is such behavior that has contributed to the public's negative perception of lawyers.

Years ago, attorneys were held in high esteem for protecting a person's rights and for being a strong advocate for justice. However, it now appears that recently the respect by the public for the legal profession has diminished.

I am therefore hopeful that the Respondent 's inappropriate behavior was the result of being young and inexperienced, rather than an attempt to circumvent the system. The fact that the Respondent was in a fiduciary capacity with an ethical duty to his client should have been recognized by the attorney, and therefore followed through accordingly. His unwillingness to act in this capacity concerns me.



A great deal of consideration has been given to the facts in this case due to the complexity of the matter. I weighed the Respondent 's conduct against the injured party's reasons for not filing the complaint that should have been discovered previously though a diligent investigation. **I am troubled by the fact that the injured party was not the complaining witness in this case.**

I am not advocating a stronger punishment because the element of time is a most serious consideration in this whole matter. All civil actions and all criminal actions (except murder and treason) have a statute of limitation. This incident occurred fourteen years ago! Before inventions such as the personal computer, digital television and widespread cellular phones! Even the Internet and voice mail were non-existent. Fourteen years is a long period of time, and it is troublesome to bring an action for conduct that occurred that long ago.

If there are no statutes of limitation, no one could go on with their lives. Misconduct should never be condoned, but there must be a limitation as to time and filing of actions. Otherwise everyone would live in a constant state of fear.

An unreasonable length of time in reporting misconduct violates due process of law because witnesses disappear and evidence is lost, which places a large burden upon the defendant.

The time lapse between misconduct and the bringing of an action should have an effect on the decision of whether or not the Commission should pursue the action. **Fourteen years is unreasonable, but unfortunately there is no time constraint upon the Tenure Commission in bringing an action.** It is left to the discretion of the Commission, which is unfair to a Respondent , because it contains too much discretion. Justice requires that there should be a time limit for a person to bring an action for misconduct.

However, under the present court rules and statutes, a defendant cannot plead any statute of limitations, even if she/he did in fact commit a wrongful act.

Ordinarily attorney self-dealing, making money at the expense of a client and breaching a fiduciary relationship, would result in more severe punishment because they are blatant, reprehensible violations of the code of conduct. However, in this case, the vast time lapse and enumerated elements mentioned previously, compelled me to consider a more reasonable disposition of this matter. I therefore concurred with the Commission's decision to publicly censure the judge for his misconduct without further penalty.

I would hope that the Supreme Court would institute a statute of limitations pursuant to the time an action can be filed before the Judicial Tenure Commission. Unlimited time to bring an action places an undue burden upon the person's ability to defend him or herself.

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HON. BARRY M. GRANT

I join in the concurring opinion of Commissioner Grant.

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JAMES MICK MIDDAUGH

**CONCURRING IN DECISION; DISSENTING FROM  
RECOMMENDATION FOR ORDER OF DISCIPLINE**

We concur with the majority decision as to findings of fact and conclusions of law, but dissent with regard to the recommended sanction. Considering the gravity of the misconduct established, we are of the opinion that an appropriate sanction in this case should include a 30 day suspension without pay.

We believe that there are some aggravating circumstances that need to be addressed. Judge Runco's actions in this matter resulted in personal financial gain at the expense of his clients, the Trifans. His actions lost them an opportunity to participate in the deal which benefited him. In addition, his refusal to recognize any misconduct weighs against him.

There is also no showing of remorse. Had he admitted the problem his actions caused when first apprised of them by the Examiner, we would have considered lesser sanctions. Instead he has blamed his political enemies, the alleged shortcomings of the Master, the aggressiveness of the Examiner, anything or anyone but himself.

His refusal to answer the complaint for so long after being admonished to do so and after being ordered to do so contributes to our belief that Judge Runco is using bad judgment presently, in addition to the prior bad judgment used earlier on his conflict situation.

For these additional reasons we would recommend suspension without pay for thirty (30) days.

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HON. MARIANNE O. BATTANI

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CAROLE L. CHIAMP, ESQ.

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PETER B. FLETCHER